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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,543	11/24/2003	Hiroaki Fujii	086142-0600	1813

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EXAMINER	
SPISICH, GEORGE D	
ART UNIT	**PAPER NUMBER**
3616	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,543	FUJII ET AL.	
	Examiner	Art Unit	
	George D. Spisich	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) *2 and 6* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 November 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *11/24/03, 6/14/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of Species IV, shown in Figure 9 in the reply filed on January 27, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Examiner is considering claim 1 to read on Figure 9 at this point, however, there are issues as to whether Figure 9 has "a lap anchor fixed to the end of the belt" as in line 2 of claim 1, and "said lap anchor locked to the hitch member" as in line 10 of claim 1. Examiner has considered claim 1 to read on Figure 9 at this point.

Regarding claim 6, the detail that the lap anchor is locked to the hitch member with a "locking member", is not considered to be shown in Figure 9. A folded over portion of the seat belt may broadly be considered a lap anchor, but there is not an additional (unrelated) structural element that would be called a "locking member" in addition to the lap anchor of the seat belt. Therefore, claim 6 has been withdrawn.

Claims 2 and 6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. Claims 1 and 3-5 have been examined in this Application.

Drawings

The drawings are objected to because in at least Figure 9, there are reference lines missing reference numerals. There is (1) an "arrow" that appears to be labeling the seat weight sensor "8" and also, (2) there appears to be a reference line labeling the stitching of the end of the belt which makes up the loop lap anchor also missing a reference numeral. These should be corrected or deleted.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The hitch member attached to the seat weight sensor as in claim 3 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Currently the hitch is attached to the mounting rail and not to the seat sensor.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

On page 12, paragraph [0056], there is disclosure of Figure 8 and the location of hitch member 14. Figure 8 does not show element 14.

In paragraph [0061], line 8, the working position "a" is shown as an "alpha" in the Figures. There should be an "alpha" in the specification also.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,4 and 5 are provisionally rejected on the ground of nonstatutory double patenting over claims 1,3,5 and 6 of copending Application No. 10/873,129. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: The seat belt device with a lap anchor slidably mounted on a slide bar hitch. The recitation that the seat belt device is mounted to a vehicle body on the side of the vehicle and the lap anchor is movable along the slide bar to a standby position and a working position is considered an inherent feature of a seatbelt arrangement and the operation of the seat belt with respect to sliding inherent in the structure of 10/873,129.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim 3 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/873,129 in view of JP03-118255.

Application '129 claims the same detail with the exception of the hitch member mounted to the seat weight sensor.

Since Applicant has disclosed that the hitch merely be attached to a part of the seat arrangement that is connected to the seat weight sensor, it merely requires a connection of the hitch member to the seat frame.

JP '255 teaches the connection of a slide bar hitch member connected to the seat rail which is indirectly (as is Applicant's) connected to the seat weight sensor.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It has not been adequately disclosed how the action of the seat belt is controlled by the measured value of the seat load determined by the seat weight sensor.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 2 is unclear. It is unclear to claim a "lap anchor fixed to the end of the seat belt". In the elected Figure 9, the lap anchor is merely a folded over portion of the seat belt and not a separate element "fixed to the end" as is claimed.

Claim 1, line 10 is unclear. It is unclear to claim that the lap anchor in elected Figure 9 is "locked to the hitch member" as the lap anchor of Figure 9, is not what is inherently meant when something is said to be "locked" since the lap anchor is loosely held in a position and is able to be moved along the slide bar of the hitch member.

Claim 3, line 3 is unclear. It is unclear to claim "one end of the slide bar is attached to the seat weight sensor" since it is merely attached to the mounting bracket of the seat weight sensor. Examiner is interpreting this claimed detail to refer to "being attached to a mounting rail connected the seat weight sensor" in this Action.

Also claim 3, lines 3-4 are unclear. It is unclear which element extends from one end toward the rear of the vehicle by the phrase "which extends". It is unclear if this is the seat weight sensor or the hitch. Should Applicant intend that the seat weight sensor

extends in this manner, Examiner would disagree since the mounting bracket is the structural element that extends in this manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilsson (USPN 4,244,601) in view of Bauer et al. (USPN 5,873,599).

Nilsson discloses a seat belt device comprising a seat belt (4 and 8) for restraining and protecting an occupant sitting on a vehicle seat, and a lap anchor (end portion of 8) "fixed" as Applicant's to the end of the end of the seat belt. The seat belt is connected to a vehicle body on a side of the vehicle seat via the lap anchor.

Nilsson discloses a hitch member (10) attached to either one of the vehicle body, the vehicle seat fixed to the vehicle body or a seat weight sensor fixed to the vehicle body.

The hitch member (10) is a slide bar with the lap anchor (end of the seat belt) is movable along the slide bar to a standby position and a working position.

However, Nilsson does not disclose a seat weight sensor installed below the seat that measure a seat load and controls the action of the seat belt based on the measure load value.

Bauer et al. disclose a seat belt arrangement having a seat weight sensor "mounted below the seat" that measures a seat load applied to the seat and controls the action of the seat belt on the basis of the measured value of the seat load. These seat belt arrangements are well known in the art and allow for the adjustment of the restraining characteristics of the seat belt bases on the size/weight of the occupant of the seat. This allows for safer operation and better protection for all size occupants of the seat.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat belt arrangement of Nilsson so as to use a seat weight sensor mounted below the seat to control the action of the seat belt as taught by Bauer et al. so as to customize the protection of the seat belt to the seat occupant and improve the operation and provide for enhanced restraint.

Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP03-118255 in view of Bauer et al. (USPN 5,873,599).

JP '255 discloses a seat belt device comprising a seat belt (14) for restraining and protecting an occupant sitting on a vehicle seat, and a lap anchor (40) "fixed" as Applicant's to the end of the end of the seat belt. The seat belt is connected to a vehicle body on a side of the vehicle seat via the lap anchor.

JP '255 discloses a hitch member (24) attached to either one of the vehicle body, the vehicle seat fixed to the vehicle body or a seat weight sensor fixed to the vehicle body. The term "attached" is sufficiently broad so as to apply to the manner in which the hitch member is "attached" in JP '255

The hitch member (24) is a slide bar (22) with the lap anchor (40) is movable along the slide bar to a standby position and a working position.

However, JP '255 does not disclose a seat weight sensor installed below the seat that measure a seat load and controls the action of the seat belt based on the measure load value. JP '255 does however show the hitch member attached to a rail of the seat.

Bauer et al. disclose a seat belt arrangement having a seat weight sensor "mounted below the seat" for that measures a seat load applied to the seat and controls the action of the seat belt on the basis of the measured value of the seat load. These seat belt arrangements are well known in the art and allow for the adjustment of the restraining characteristics of the seat belt bases on the size/weight of the occupant of the seat. This allows for safer operation and better protection for all size occupants of the seat.

With respect to the limitation that the hitch member is attached to the seat weight sensor, as Applicant has only shown a hitch member attached to the seat weight sensor indirectly, Examiner is broadly considering the attachment of the hitch member of JP '255 to broadly be considered to be connected to any element of the seat.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat belt arrangement of JP '255 so as to use a seat

weight sensor mounted below the seat to control the action of the seat belt as taught by Bauer et al. so as to customize the protection of the seat belt to the seat occupant and improve the operation and provide for enhanced restraint. The hitch member of JP '255 would then broadly and indirectly connected to the seat weight sensor as the hitch member of JP '255 is shown as connected to the seat rail.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sasaki et al. (USPN 4,531,762), Sylven (USPN 4,451,060), Akiyama (USPN 4,475,746), Tokugawa (USPN 4,676,555), Tokugawa (USPN 4,729,602), Nishimoto et al. (USPUB2003/0178835), Enomoto et al. (USPUB 2002/0167158), Enomoto et al. (USPN 6,698,795), Blake et al. (USPN 5,294,184), Weman (USPN 4,915,414).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571) 272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George D. Spisich
March 17, 2006

3/20/06

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